

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

SCOTT T. BALLOCK,

Plaintiff,

v.

CIVIL ACTION NO.: 1:17-CV-52
Honorable Irene M. Keeley

ELLEN RUTH COSTLOW,
STATE TROOPER MICHAEL KIEF,
STATE TROOPER RONNIE M.
GASKINS, AND STATE TROOPER
CHRIS BERRY,

Defendants.

DEFENDANTS STATE TROOPER MICHAEL KIEF, STATE TROOPER
RONNIE M. GASKINS, AND STATE TROOPER CHRIS BERRY'S
SUPPLEMENTAL RESPONSES TO PLAINTIFF'S
FIRST SET OF DOCUMENT REQUESTS

Pursuant to Rules 26 and 34 of the Federal Rules of Procedure, Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins, and State Trooper Chris Berry (collectively, the "State Police Defendants") supplement their Responses to "Plaintiff Scott Ballock First Set of Document Requests to State Trooper Defendants Kief, Gaskins and Berry" as follows:

REQUESTS FOR PRODUCTION

REQUEST NO. 1: All documents regarding or related to Scott Ballock, including but not limited to documents within any of the following categories:

- a. All investigations, formal or informal, relating to Ballock including members of his family including his father Thomas Ballock;
- b. All photos and videos of Scott Ballock and his family;
- c. All electronic surveillance of Scott Ballock and any member of his family;
- d. All documents, emails and communications regarding Ballock's relationship or communications with Costlow;

- e. All documents, emails or communications relating to the family court matter and divorce proceedings between Costlow and Ballock;
- f. All documents relating to Ballock's employment.

RESPONSE: OBJECTION: The State Police Defendants object to this request to the extent it seeks documents protected by the attorney-client privilege or work product doctrine. Subject to and without waiving this objection, the State Police investigation file of Ms. Costlow's complaints against Plaintiff is included on the disk attached as "Exhibit 1," Bates-stamped Troopers 00001 through Troopers 00393. Although Plaintiff's name mostly has been redacted, pursuant to the expungement of his criminal record, counsel are advised that there are approximately ten instances in which Plaintiff's name was overlooked by those performing the redaction. This file has not been disclosed outside of the West Virginia State Police's Morgantown, West Virginia detachment since the expungement of Plaintiff's criminal record, however. In addition, a fax sent to the FBI's Clarksburg Resident Agency at the request of Senior Supervisory Resident Agent James Herman, regarding the dismissal of the criminal charges against Plaintiff, is included on Exhibit 1, Bates-stamped Troopers 00402-05.

SUPPLEMENTAL RESPONSE: The State Police Defendants renew their previous objection to this request. Subject to and without waiving that objection, additional responsive documents are included on the disk attached as "Exhibit 1," Bates-stamped Troopers 00406 through Troopers 00816.

REQUEST NO. 2: Documents regarding Ellen Costlow, including but not limited to documents within any of the following categories:

- a. All communications, text messages or voice messages with Costlow;

- b. All documents, emails and communications regarding Costlow's relationship with Berry;
- c. All documents, emails and communications regarding Costlow's relationship with Ballock;
- d. All documents, emails and communications regarding Ballock's children and Costlow's relationship with them;
- e. All records, notes and calendar entries regarding meetings and phone calls between the defendants and Costlow, individually as well as in groups;
- f. All documents and communications relating to the family court proceedings between Costlow and Ballock;
- g. All notes and memoranda regarding Costlow's communications, whether official or unofficial, with each Defendant;
- h. All photos, video and recordings of Costlow as well as such as include Costlow;
- i. All communications, memos or notes regarding any complaint by Costlow against Ballock;
- j. All social medial posts, communications or messages relating to Costlow or any Defendant's involvement with Costlow;
- k. All records of payments and loans to or from Costlow;
- l. All records of gifts to or from Costlow.

RESPONSE: OBJECTION: The State Police Defendants object to this request to the extent it seeks documents protected by the attorney-client privilege or work product doctrine. Subject to and without waiving this objection, see the documents included in Exhibit 1.

SUPPLEMENTAL RESPONSE: The State Police Defendants renew their previous objection to this request. Subject to and without waiving that objection, additional responsive documents are included on the disk attached as "Exhibit 1," Bates-stamped Troopers 00406 through Troopers 00816.

REQUEST NO. 4: All records of complaints, reviews, or disciplinary proceedings involving any defendant with the WVSP or any [sic] documents related to any such complaints, reviews or disciplinary proceedings.

RESPONSE: OBJECTION: The State Police Defendants object to this request on the grounds that it seeks information that is not relevant to the parties' claims or defenses in this case. The existence of any complaints, reviews, or disciplinary proceedings related to any matter other than the investigation of Plaintiff and his arrest has no bearing on whether Plaintiff's arrest was proper. Subject to and without waiving this objection, the State Police Defendants have no responsive documents.

SUPPLEMENTAL RESPONSE: The State Police Defendants renew their objection to this request. Subject to and without waiving this objection, a responsive document, Bates-stamped Troopers 00817 through Troopers 00826 is included in Exhibit 1.

REQUEST NO. 5: All communications relating to the above-captioned litigation.

RESPONSE: OBJECTION: The State Police Defendants object to this request on the grounds that it seeks documents protected by the attorney-client privilege or work product doctrine.

SUPPLEMENTAL RESPONSE: The State Police Defendants renew their objection to this request. A privilege log is attached as "Exhibit 2." Communications between the undersigned counsel and the State Police Defendants are not included on the privilege log because of their voluminous nature and clear entitlement to attorney-client privilege.

REQUEST NO. 6: All email between any defendants between September 2012 and the present.

RESPONSE: OBJECTION: The State Police Defendants object to this request to the extent it seeks documents protected by the attorney-client privilege or work product doctrine. The State Police also object to this request on the grounds that it is overly broad and unduly burdensome in that it would require the State Police Defendants to search their e-mails for a period of more than seven years. The State Police further object to this request on the grounds that it seeks information that is not relevant to the parties' claims and defenses and is not proportional to the needs of the case because it is not limited to e-mails that are reasonably related to the subject matter of this litigation. Subject to and without waiving these objections, e-mails between Ms. Costlow and Kenny Ray Ice, Jr. and Sgt. Kief and Trooper Gaskins are included in the State Police investigation file.

SUPPLEMENTAL RESPONSE: The State Police Defendants renew their objection to this request. A privilege log is attached as "Exhibit 2."

REQUEST NO. 12: WVSP's policy guidelines for preparation of reports when conducting a criminal investigation, to include when responding to violent domestic disturbances.

RESPONSE: The State Police Defendants will supplement their response with responsive documents.

SUPPLEMENTAL RESPONSE: Responsive documents, Bates-stamped Troopers 00827 through Troopers 00870, are included in Exhibit 1. The State Police Defendants

will supplement their response to include the WVSP policies for responding to domestic violence calls.

Dated this 9th day of March 2018.

/s/ Mark G. Jeffries

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Gaskins, and State Trooper Chris Berry*

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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March 2018, I served the foregoing "Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins and State Trooper Chris Berry's Supplemental Responses to Plaintiff's First Set of Document Requests" upon all counsel of record by mailing the same in the U.S. Mail, postage prepaid, in envelopes addressed as follows:

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s/ Mark G. Jeffries

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